

BAHAMAS 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Commonwealth of The Bahamas is a constitutional, parliamentary democracy. On May 7, Prime Minister Perry Christie's Progressive Liberal Party (PLP) regained control of the government in elections that international election observers found to be generally free and fair. Security forces reported to civilian authorities.

The most serious human rights problems were complaints of abuse by police and a poorly functioning judicial system, leading to delays in trials, lengthy pretrial detention, and witness intimidation.

Other human rights problems included poor detention conditions; corruption; violence and discrimination against women; sexual abuse of children; and discrimination based on ethnic descent, sexual orientation, or HIV status.

The government took action against police officers accused of abuse of power, and there was not a widespread perception of impunity.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings. However, there were occasional reports of fatal shootings and questionable deaths of suspects in police custody. Bystanders at some shootings claimed that police were too quick to use their firearms and, in some instances, declared that police officers were unprofessional and in need of additional training. Police investigated all such incidents and referred them to a coroner's court for further evaluation. In addition, all deaths in police custody go before the coroner's court.

Authorities reported two fatalities in police operations during the year.

On March 20, witnesses accused a police corporal of fatally shooting an unarmed man on Crooked Island during a cookout fundraiser. Police authorities transferred the police officer to Nassau, but the government declined to provide an update on the investigation.

On June 9, 22-year-old Tyrone Saunders died in police custody at the Central Detective Unit. His mother claimed he was in good health when police arrested him and that they killed him while in custody. A coroner's investigation reported that Saunders died of a heart attack.

On June 6, a court found police officer Donovan Gardiner guilty of beating a suspect (held in custody on a minor traffic offense) with a baseball bat, resulting in injuries that led to his death in 2007. The judge sentenced Gardiner to 10 years in prison.

Although the government declined to provide more recent data, in 2011 the coroner's court resolved 1,278 cases and faced a backlog of 846 cases, including a few pending cases involving police shootings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution prohibits such practices, citizens and visitors made numerous reports alleging instances of police abuse of criminal suspects.

In July three robbery suspects held in police custody claimed police beat them, nearly suffocated them with fish bags placed over their heads, placed them in body bags, and threatened to dump them in the local landfill to extract confessions.

Prison and Detention Center Conditions

Prison and detention center conditions generally failed to meet international standards, and conditions at Her Majesty's Prison at Fox Hill (HMP), the country's only prison, remained harsh and unsanitary for many prisoners. HMP facilities include the remand center, remand court, maximum security blocks, medium security and minimum security/work release units, and a separate women's unit. Overcrowding and access to adequate medical care were major problems in the men's maximum-security block.

Physical Conditions: In August authorities reported the daily population of the prison and the remand center exceeded 1,600, compared with 1,300 in October 2011. Minister of National Security Bernard Nottage characterized the extent of overcrowding at the prison as “unacceptable”, attributing the overcrowding to the large number of petty criminals incarcerated and the backlog in processing at the remand center. To address overcrowding in the remand center, which stemmed from processing backlogs within the judicial system, authorities held detainees awaiting trial in the maximum-security block. In June the prison superintendent reported the maximum-security wing of the prison held nearly 900 inmates, which was twice the number of inmates it was built to house when constructed by British colonial authorities in 1953. Non-Bahamian citizens, deemed to pose an escape risk, were generally held in remand in the maximum-security block. Authorities estimated that 46 percent of those held in maximum security were awaiting trial.

In June authorities reported that as many as six inmates were confined to cells intended for one or two prisoners. Others remained in poorly ventilated and poorly lit cells that lacked regular running water. In 2010 authorities installed composting toilets in an attempt to move away from the unsanitary practice of removing human waste by bucket, or “slopping.” However, these toilets were ineffective and subsequently removed, after which slopping resumed. Authorities allowed maximum-security inmates outside for exercise four days a week for one hour per day. Medium-security and minimum-security units had running water and toilets, and, in some cases, a television for prisoners to watch. Four reverse-osmosis units installed at various prison housing units allowed each inmate to extract a minimum of one gallon of potable water during exercise time each day, free of charge. In addition, bottled water and other beverages were available for purchase from the prison commissary.

Prison guards complained about conditions, including inadequate running water in the prison, repairs needed for the female prison, and improper management of officers. They also cited the lack of a full-time dentist, failure to appoint a staff psychiatrist, incomplete perimeter walls for more than five years, a damaged roof in need of repair in the maximum-security block, and that the use of prison guards at the remand center violated the Prison Act.

There was one inmate death during the year. On February 7, a person held in remand for more than a year at HMP on charges involving financial fraud died in custody due to complications from a long-term illness. His death occurred only days before his scheduled release. Prison authorities failed to ensure adequate medical treatment in a timely manner in this case, despite repeated requests for

medical treatment. Moreover, there was significant evidence that prison officials failed to ensure the security of the deceased's prison commissary account, which was exhausted by unauthorized persons.

Authorities held female prisoners at HMP in a separate building located away from the retention area for male prisoners. The female population numbered less than 100 prisoners. Conditions for female prisoners were less severe and less crowded than for men; however, women did not have access to the same work-release programs available to male prisoners. Authorities declined to provide data on the number of female inmates who were awaiting trial.

The prison did not have a separate section for juvenile offenders between the ages of 16 and 18 but used a classification system to attempt to separate them from the most dangerous adults. Authorities held offenders younger than 16, along with children made wards of the court, at the Simpson Penn Center for Boys and the Williamae Pratt Center for Girls. Escapes were common; after seven teenage boys escaped from Penn Center in August, the minister of social services identified security conditions at both juvenile centers as an "urgent issue."

The highest occupancy at the Carmichael Road Immigrant Detention Center during the year was 375 persons. The center, originally a school, was converted into a detention center in the mid-1990s to accommodate the increase in number of irregular migrants. When the center initially opened, it consisted of four dormitories, each with a 50-bed capacity. Two of those dormitories burned in a fire started by inmates in 2004, limiting the current facility to two dormitories with the capacity for 100 detainees. The dormitories were gender segregated and secured using locked gates, metal fencing, and barbed wire. When the dormitories were at maximum capacity, detention center staff utilized the floor of the main hall in the medical building to accommodate up to another 50 individuals with sleeping space. Any additional detainees slept outside. International observers noted 64 beds in the center. Parent detainees with children were held in the women's dormitory at the detention center. Unaccompanied minors were housed in the Children's Emergency Hostel and the Elizabeth Estates Children's Home.

International human rights organizations reported receiving firsthand accounts of abuse from detainees at the Carmichael Road Detention Center who claimed their access to basic necessities and medical screening was restricted and that routine medical care was not provided. Interpretation support was not regularly available. Detainees also reported that they were physically abused, and that Royal Bahamas Defense Force (RBDF) officers regularly beat detainees while prison officers

watched. On December 5, a Trinidadian male detainee died; the cause of death was listed as respiratory failure, although the family claimed that the individual had no history of health-related problems. Authorities reportedly removed the center's director following this death. International observers reported that attorneys were restricted from meeting with detained clients and when visits were granted, the attorney had to conduct the meeting in the presence of an immigration official.

As of December 10, there were 114 detainees, five of whom had been held more than 24 months. Authorities reported that they repatriated 3,318 irregular immigrants to their home countries during the year. This group consisted of 2,525 Haitians (2,059 males, 431 females, and 35 children) and 793 from other countries.

Authorities reported only minor complaints from detainees during the year, mostly concerning type and quantity of food. However, human rights organizations received reports that rats and mice infested the living quarters. Human rights organizations also reported that authorities denied some detainees the right to contact their respective embassies or consulates, that none of the eight pay telephones were operational, and that no alternative telephone was made available to detainees. Detainees did not have access to an ombudsman or other means of submitting uncensored complaints. Drinking water was available from a tap in the men's facility. The bathroom sinks in the women's facility were not functioning but the toilets and shower were in working order. Women drew their drinking water from the shower.

Administration: Generally, prisoners and detainees had reasonable access to visitors and were permitted religious observance. Some organizations providing aid, counseling services, and religious instruction had regular access to inmates. Although there was no designated ombudsman, upon request prisoners were entitled to an audience with the superintendent or a designee to lodge complaints. The superintendent was available to hear the complaints of prisoners every day of the week except Sundays. Although the government declined to provide more recent data, in 2011 authorities said that there were 20 complaints to judicial authorities concerning situations in the prison, mostly related to a desire to be placed in the day-release work program, a shortage of recreational equipment, and greater access to dental facilities. Officials stated that they investigated all credible allegations. Authorities conducted 43 preliminary inquiries and investigations of staff and inmates. Alternative sentencing for nonviolent offenders was not available. The tracking of prisoners was inadequate. Between June and October

five prisoners escaped while receiving medical treatment at the government hospital.

Monitoring: Human rights organizations complained the government did not consistently grant requests by independent human rights observers for access to HMP, Carmichael Detention Center, and the two juvenile centers. The government maintained additional bureaucratic procedures for some nongovernmental organizations (NGOs) to gain access to the detention center, making it difficult to visit detainees on a regular basis.

Improvements: In June the HMP superintendent announced that the facility introduced several cost-cutting measures, including switching from brand name to generic cigarettes for prisoners' cigarette rations provided in accordance with the rules of the Prison Act. He also cited other cost-cutting measures, including baking bread and manufacturing certain items on prison grounds. The superintendent credited a newly established video remand center, also located on prison grounds, with contributing to significant fuel savings given that fewer vehicles were required to transport prisoners between the prison and downtown courts on a daily basis.

d. Arbitrary Arrest or Detention

The constitution prohibits arbitrary arrest and detention, and the government generally observed these prohibitions, although police occasionally were accused of arresting and detaining persons arbitrarily.

Role of the Police and Security Apparatus

The Royal Bahamas Police Force (RBPF) maintains internal security. The small RBDF is responsible for external security, security at the Carmichael Road Detention Center, and some minor domestic security functions such as guarding foreign embassies and ambassadors. The Ministry of National Security oversees the RBPF and the RBDF.

Police officers involved in shooting or killing a suspect are automatically placed under investigation. The Police Complaints and Corruption Branch (PCCB), which reports directly to the deputy commissioner, is responsible for investigating allegations of police brutality or other abuse. This unit determines if enough evidence of abuse or misconduct exists in a particular case to warrant disciplinary action within the police system or, in some cases, criminal prosecution by the

attorney general. The PCCB had 21 staff members to process complaints against police officers.

In addition to the PCCB, an independent body--the Police Complaints Inspectorate Office (PCIO)--on New Providence and Grand Bahama islands investigated complaints against police. Although the government declined to provide more recent data, the PCIO, which is composed of five citizens, met eight times during 2011 to consider 60 complaints against officers, most of which involved assault and unlawful arrest cases. No information was available on the outcome of the PCIO proceedings.

There were 243 complaints against police during the year, compared with 287 in 2011. The complaints included assault, unethical behavior, unlawful arrest, stealing, damage, neglect of duty, missing property, causing harm, threats of death, threats of harm, and harassment. Authorities declined to provide information on cases processed by the tribunal.

Arrest Procedures and Treatment While in Detention

In general the authorities conducted arrests openly and, when required, obtained judicially issued warrants. Serious cases, including suspected narcotics or firearms offenses, do not require warrants where probable cause exists. The law provides that authorities must charge a suspect within 48 hours of arrest. Arrested persons appear before a magistrate within 48 hours (or by the next business day for cases arising on weekends and holidays) to hear the charges against them. Police can apply for a 48-hour extension upon simple request to the court and for longer extensions with sufficient showing of need. Some persons on remand claimed they were not brought before a magistrate within the 48-hour time frame. The government generally respected the right to a judicial determination of the legality of arrests. The constitution provides the right for those arrested or detained to retain an attorney at their own expense; volunteer legal aides were sometimes available. Minors under age 18 have the right to communicate with a parent or guardian.

There was a functioning bail system. Individuals who could not post bail were held on remand until they faced trial. Judges sometimes authorized cash bail for foreigners arrested on minor charges; however, in practice foreign suspects generally preferred to plead guilty and pay a fine rather than pursue their right to defend themselves, in view of possible delays in court cases and harsh conditions in prison. In June Attorney General Allyson Maynard-Gibson reported that the

record keeping system for tracking those out on bail was “woefully inadequate,” noting that 400 people charged with murder in the past 10 years were currently out on bail.

Pretrial Detention: Attorneys and other prisoner advocates continued to complain of excessive pretrial detention due to the failure of the criminal justice system to try even the most serious cases in a timely manner. The constitution provides that suspects can be held for a “reasonable period of time” before trial, which is defined as two years. More than 500 prisoners were awaiting trial at year’s end. To begin to address the overcrowding issue, in 2010 authorities introduced a new electronic ankle-bracelet surveillance system in which they released select suspects awaiting trial with the ankle bracelet in place on the understanding that the person would adhere to strict and person-specific guidelines defining allowable movement within the country. By June nearly 400 accused persons were being monitored through the ankle bracelet system. Since the program launch, however, police reported experiencing numerous challenges with participants tampering with ankle bracelets and revoked the bail of 30 persons using foil to interfere with the bracelet’s GPS system. An armed robbery suspect removed and dropped off his electronic monitoring device at the Central Police Station and fled, and a mother and son who witnessed a killing were shot and killed after the murder suspect was released on the ankle-bracelet program.

The authorities detained irregular immigrants, primarily Haitians, until arrangements could be made for them to leave the country or they obtained legal status. The average length of detention varied significantly by nationality, willingness of governments to accept their nationals back in a timely manner, and availability of funds to pay for repatriation. Authorities usually repatriated Haitians within one to two weeks, while they held Cubans for much longer periods. Authorities held irregular immigrants convicted of crimes other than immigration violations at HMP, where they often remained for weeks or months after serving their sentences, pending deportation.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice. However, sitting judges are not granted tenure, and some law professionals asserted that judges were incapable of rendering completely independent decisions due to lack of job security. An analysis of the appellate court’s judgments between 2009 and February 2012

determined that procedural errors made by judges--including the allowance of inadmissible evidence and redirecting the jury--resulted in six murder retrials.

Trial Procedures

The constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, procedural shortcomings, trial delays, and a significant backlog of cases in the Supreme Court were a problem.

Defendants enjoy a presumption of innocence until proven guilty and are permitted to question witnesses at trial and view government evidence. Defendants have a right to appeal. Defendants can elect to use a jury in criminal cases; serious offenses such as murder and fraud automatically go to a jury.

Although defendants generally have the right to confront witnesses, in some cases the law allows witnesses to testify anonymously against accused perpetrators. The law was enacted in an effort to protect witness from intimidation or retribution (in September the Senate was told that 25 witnesses were killed in the last five years). Efforts to protect witnesses were hindered by the fact that 70 percent of citizens live within the 80 square miles that make up New Providence Island.

Defendants may hire an attorney of their choice, but the government provided legal representation only to destitute suspects charged with capital crimes, leaving large numbers of defendants without adequate legal representation. Lack of representation contributed to excessive pretrial detention, as some accused lacked the means to pursue their case toward trial.

As in previous years, a significant backlog of cases waiting to be tried by the Supreme Court remained a problem. Delays reportedly lasted five years or more. To begin to address the problem, the government added a fifth criminal trial justice and court at the Supreme Court level in 2011. Over the past two years, the government increased the number of judges, magistrates, prosecutors, and courts within the justice system. However, growth has not kept pace with the rise in criminal cases and remained insufficient to address the growing backlog of cases. Once cases go to trial, they are often further delayed due to poor case and court management. Examples of shortcomings included inaccurate handling or presentation of evidence and inaccurate scheduling of witnesses, jury members, and accused criminals for testimony.

Local legal professionals attributed delays to a variety of longstanding systemic problems, such as slow and limited police investigations, inefficient prosecution strategies, limited forensic capacity, lengthy legal procedures, and staff shortages in the Prosecutor's Office. The press reported that the many problems identified in a 2004 audit of the Court Reporting Unit remained unresolved. These problems included a shortage of court reporters and extensive delays in producing transcripts. In October the president of the Court of Appeals reported that 80 outstanding transcripts had hindered the court's ability to review the decisions of lower courts and characterized the dilapidated state of the Court of Appeals as "close to a state of emergency." According to several legal professionals, the principle of separation of powers was jeopardized by the executive branch control of the budget and assignment of personnel for the judicial branch of government.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, and there is access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

While the law usually requires a court order for entry into or search of a private residence, a police inspector or more senior police official may authorize a search without a court order where probable cause to suspect a weapons violation or drug possession exists.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press combined with a

relatively effective--albeit extremely backlogged--judiciary, and a functioning democratic political system ensured freedom of speech and press.

The independent media were active and expressed a wide variety of views without significant restriction. Following the PLP election victory in May, there were sporadic reports that journalists associated with the losing Free National Movement (FNM) party were dismissed from their positions at state-run media organizations due to their political affiliation.

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. The Internet was widely available on New Providence and Grand Bahama islands, and the government estimated that 65 percent of the population used the Internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events. However, the Plays and Films Control Board rates and censors plays and films for public viewing.

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees and asylum seekers. The government did not systematically share its prescreening notes with the UNHCR but did seek UNHCR advice on specific cases of concern.

Protection of Refugees

Access to Asylum: The government has not established a consistent system for providing protection to all refugees and asylum seekers. When they occurred, applications for political asylum were adjudicated on a case-by-case basis at the cabinet level. The authorities received five asylum requests, of which none were granted during the year, but two 2011 cases were still in progress at year's end.

Local and international human rights observers criticized the government for failing to screen potential asylum applicants adequately, but the Ministry of Foreign Affairs reported that the UNHCR assisted such applicants. Those requesting asylum screening often lacked access to legal counsel. International human rights organizations reported that the government maintains a memorandum of understanding with the Cuban government allowing for information sharing that heightens the risk of the persecution of detainees and their families. They also claimed that the government detained Cuban migrants for excessive periods. The government asserted that trained immigration officials interviewed and adequately screened all migrants who claimed asylum.

Stateless Persons

The government has not effectively implemented laws and policies to provide certain habitual residents the opportunity to gain nationality in a timely manner and on a nondiscriminatory basis. Children born in the Bahamas to non-Bahamian parents or to a Bahamian mother and a non-Bahamian father do not automatically acquire citizenship. Bahamian-born persons of foreign heritage must apply for citizenship during a 12-month window following their 18th birthday, sometimes waiting many years for a government response. The narrow window for application, difficult documentary requirements, and long waiting times created generations of de facto stateless persons. Some commentators believed that these restrictions were aimed particularly against Haitians resident in the country. In February then minister of immigration Brent Symonette stated that 2,590 applications for citizenship were approved between May 2007 and the close of

2011. However, it was not clear how many applications were submitted, and how many of those approved were from applicants of Haitian descent.

There were no reliable estimates of the number of de facto stateless persons. Such persons often faced waiting periods of several years for the government to decide on their nationality applications and, as a result, lacked proper documentation to secure employment, housing, access to health services, and other public facilities during this period.

Individuals born in the country to non-Bahamian parents were eligible to apply for certificates of identification that entitled them to work authorization, access to public high school-level education, and a fee-for-service health-care insurance program. Human rights advocates criticized the health insurance program as having unrealistic payment requirements that prohibited widespread access. Individuals born in the country to non-Bahamian parents were allowed to pay the tuition rate for Bahamian student while waiting for their request for citizenship to be processed.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: The general election on May 7 resulted in a victory for the opposition PLP and a change of government. Prime Minister Perry Gladstone Christie took office on May 8 after defeating the FNM party led by former prime minister Hubert Ingraham. Christie had previously served as prime minister from 2002 to 2007. The PLP won 29 of the 38 available parliamentary seats, with 48 percent of the popular vote. The FNM won the remaining nine seats. Although the PLP won a significant majority of seats in Parliament, the final vote tallies had a difference of just over 10,000 votes between the two primary political parties. For the first time, the election included an effective third political party, the Democratic National Alliance (DNA), which fielded candidates in each of the 38 constituencies. Despite capturing nearly 10 percent of the vote, the DNA failed to win any seats. Ingraham resigned his seat shortly after his party lost the elections

in May, and a PLP candidate won the seat in an October by-election, bringing the total PLP parliamentary seats to 30.

In advance of the elections, the Ingraham government revised its electoral legislation to allow official election observers to participate in the electoral process for the first time. Election observers from the Organization of American States (OAS) and foreign embassies found the May elections to be generally free and fair. After the May election, the FNM and some media alleged that persons associated with that party were “victimized” when they were dismissed from government jobs shortly after the administration change.

The principal electoral law contains no provisions covering campaign contributions, nor any prohibition of financing from foreign and/or anonymous sources. As a result financing of political campaigns is generally considered an entirely private affair between party candidates and their contributors. The OAS electoral observation mission reported that this system, in which campaign finance is entirely of private origin and essentially unregulated, has the potential to affect the equity of electoral competition. The OAS stated that such a system also exposes the country to the possible infiltration of illicit funds into politics. The lack of reporting requirements for political parties, combined with the fact that the legal framework does not endow the electoral authority with supervisory functions in the area of political financing or delegate this function to another organism, leads to a deficit of accountability in the area of political financing. The OAS also reported concern over the absence of guaranteed access to information on campaign spending, which leads to a lack of transparency with a potentially negative impact on the ability of voters to make informed decisions.

Participation by Women and Minorities: In May women constituted 17 percent of all candidates in the general election. Voters elected five women to the 38-seat House of Assembly. After the change of administration, four women were appointed to the 21-member Cabinet, and five women were appointed to the 16-seat Senate, one of whom is the president.

Information on racial background was not collected, but there were members of minorities in prominent positions in parliament and the cabinet.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. However, there were some reports of government corruption during the year.

There is no government agency specifically responsible for monitoring allegations of government corruption. Such allegations are reported to the commissioner of police. When allegations of corruption are brought to the attention of the House of Assembly, the group may elect to constitute an investigative committee to inquire into the matter further.

Following the October by-elections, former prime minister Ingraham publicly accused Prime Minister Christie and the PLP of bribing voters. The PLP also accused Ingraham and the FNM party of granting multimillion dollar development projects to Family Island constituencies in an effort to garner votes in the lead-up to the May parliamentary elections. Both the FNM and PLP were accused of accepting campaign contributions from illegal online gaming businesses.

The Public Disclosure Act requires senior public officials, including senators and members of parliament, to declare their assets, income, and liabilities on an annual basis. The declaration applies to spouses and dependent family members. The government publishes a summary of the individual declarations. In practice there is no independent verification of the submitted data, and the rate of annual submission is weak except in election years. All 133 candidates in the May election submitted their financial statements as required.

On February 23, the Senate passed the Freedom of Information Act (FOIA), which provides access to government information upon request from citizens and permanent residents, except for the following: reports that would compromise the country's security, confidential communication to the government by or on behalf of a foreign jurisdiction or international organization, information that could jeopardize the security of a prison, and Cabinet papers. The act stipulates a B\$10,000 (\$10,000) fine for anyone who contravenes the legislation but does not include an implementation date. On August 24, Prime Minister Perry Christie promised to enforce FOIA as soon as possible, but by year's end no implementing regulations had been issued nor any public information/education campaigns conducted about the new law.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials usually were cooperative and responsive to their views.

Government Human Rights Bodies: A governmental commissioner with ombudsman-like duties enjoyed the government's cooperation and was considered effective.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution prohibits discrimination on the basis of race, place of origin, political opinion, or creed, and the government generally enforced these prohibitions. However, the constitution and the law contain provisions that discriminate against women.

The country consists of 700 islands and cays, 12 of which are significantly inhabited. Information in this report reflects the situation in the highly populated areas on New Providence and Grand Bahama. Limited information was available from other lesser populated islands.

Women

Rape and Domestic Violence: Rape is illegal, but the law does not protect against spousal rape, except if the couple is separating, in the process of divorce, or if there is a restraining order in place. The maximum penalty for an initial rape conviction is seven years; the maximum for subsequent rape convictions is life imprisonment. In practice, however, the maximum conviction was 14 years. Survivors reported 97 rapes during the year compared with 107 in 2011 when authorities initiated 40 prosecutions for rape. Authorities declined to provide more recent figures.

Violence against women continued to be a serious, widespread problem. In August the police reported that 464 domestic violence cases were registered in 2011, representing the highest recorded in the previous three years. One third of the 1,285 interventions conducted by the Bahamas Crisis Center (BCC) in 2011 related to domestic violence, and the center experienced similar trends during the year. In July the police commissioner reported that many of the murders that took place were related to domestic violence, and another official indicated that 45 percent of all homicides over the last 20 years could be attributed to domestic violence. Assailants killed 10 women during the year, compared with 16 in 2011.

Domestic abuse law prohibits domestic violence as a crime separate from assault and battery, and the government generally enforced the law.

Women's rights groups cited some reluctance on the part of law enforcement authorities to intervene in domestic disputes. The BCC worked with police by providing them with a counselor referral service to utilize when encountering rape victims. In June a minister of state called for the BCC to change its policy of requiring those in need of counseling to come to the center rather than dispatching volunteers to people's homes. The BCC director pointed out that none of the center's staff are paid and reiterated that police should be the first point of contact for domestic disputes.

The BCC operated a toll-free hotline in New Providence and Grand Bahama, run by trained volunteers to respond to emergency calls 24 hours a day. Government and private women's organizations continued public awareness campaigns highlighting the problems of abuse and domestic violence. The Ministry of Labor and Social Development's Department of Social Services, in partnership with a private organization, operated a safe house to assist female survivors. The ministry's Bureau of Women's Affairs was responsible for promoting and protecting women's rights.

Sexual Harassment: The law prohibits criminal "quid pro quo" sexual harassment and authorizes penalties of up to B\$5,000 (\$5,000) and a maximum of two years' imprisonment. No information was available about the number of reports of workplace sexual harassment during the year. Civil rights advocates complained that criminal prohibitions were not enforced effectively and that civil remedies, including a prohibition on "hostile environment" sexual harassment, were needed.

Reproductive Rights: Couples and individuals generally could decide freely and responsibly the number, spacing, and timing of their children and were not subject to discrimination, coercion, or violence regarding these choices. Access to family planning was universally available to persons age 18 and older and to younger persons with the consent of a parent or guardian. Authorities removed pregnant teens from government educational institutions and placed them in a special school operated by the Providing Access to Continued Education Foundation until after the birth of their children. The Maternal and Child Health Unit of the Ministry of Health provided information pamphlets on maternal and child health to clinics. A government Web site provided information for maternal and child health-care services provided by various clinics throughout the country. Women had access to maternal health services. According to UN data, in 2010 skilled personnel

attended 99 percent of births, and 98 percent of mothers received prenatal and postpartum care. Services were available on a nondiscriminatory basis, although some irregular immigrants did not receive postpartum care because they had no fixed address.

Discrimination: The law does not provide women with the same right as men to transmit citizenship to their foreign-born spouses. The law also makes it easier for men with foreign spouses than for women with foreign spouses to confer citizenship on their children. The law does not include gender as a basis for protection from discrimination. Women were generally free of economic discrimination, and the law provides for equal pay for equal work.

Children

Birth Registration: Children born to non-Bahamian parents or to a Bahamian mother and a non-Bahamian father do not automatically acquire citizenship. Otherwise, citizenship is acquired by birth in the country. There is universal birth registration; all births must be registered within 21 days of delivery. All residents, regardless of immigration status, had free access to education and social programs.

Child Abuse: Both the government and civic organizations conducted public education programs aimed at child abuse and appropriate parenting behavior; however, child abuse and neglect remained serious problems. The RBPF operated a hotline regarding missing or exploited children. The Child Protection Act of 2007 included increased penalties for child abuse, mandatory reporting to police of all forms of child abuse, a provision for fathers of children born out of wedlock to pursue custody of the children, and a provision for mothers of children born out of wedlock to pursue maintenance for those children up to age 18.

The Ministry of Social Services reported 495 cases of child abuse through September. In addition the RBPF reported 167 cases of adults having unlawful sexual intercourse with children age 15 and younger.

The law requires all persons having contact with a child they believe to have been physically or sexually abused to report their suspicions to the police. The penalties for rape of a minor are the same penalties as those for rape of an adult. While a victim's consent is insufficient defense against allegations of statutory rape, it is sufficient defense if an individual can demonstrate that the accused had "reasonable cause to believe that the victim was above 16 years of age," provided the accused was under age 18.

Sexual exploitation of children through incestuous relationships occurred, and anecdotal reports continued to suggest that this was a particular problem outside Nassau. The Ministry of Social Services may remove children from abusive situations if a court deems it necessary. The ministry provided services to abused and neglected children through a public-private center for children, the public hospital family violence program, and the Bahamas Crisis Center.

Child Marriage: The legal minimum age for marriage is 18, although girls may marry at 16 and boys at 17 with parental permission.

Sexual Exploitation of Children: The minimum age for consensual sex is 16 years. The law considers any association or exposure of a child to prostitution or a prostitution house as cruelty, neglect, or mistreatment of a child. Additionally, the offense of having sex with a minor carries a penalty of life imprisonment. Child pornography is against the law. A person who produces it is liable to life imprisonment; dissemination or possession of it calls for a penalty of 20 years' imprisonment.

Institutionalized Children: The Department of Social Services is responsible for abandoned children up to 18 years of age but had very limited resources at its disposal. The government found foster homes for some children, and the government hospital housed children with physical disabilities when foster homes could not be found or they needed care beyond their parents' resources. Independent human rights observers reported that the government did not consistently approve access requests to the Elizabeth Estates Children's Home and the Bilney Lane Children's Home.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at www.travel.state.gov/abduction/resources/congressreport/congressreport_4308.html.

Anti-Semitism

There were no reports of anti-Semitic acts. The local Jewish community numbered approximately 200 persons.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

There is no specific law protecting persons with physical or mental disabilities from discrimination in employment, education, access to health care, or the provision of other state services. However, provisions in other legislation address the rights of persons with disabilities, including a prohibition of discrimination on the basis of disability. Although the law mandates access for persons with physical disabilities in new public buildings, the authorities rarely enforced this requirement, and very few buildings and public facilities were accessible to persons with disabilities. Advocates for persons with disabilities complained of widespread job discrimination and general apathy on the part of private employers and political leaders toward the need for training and equal opportunity.

The Disability Division within the Ministry of Labor and Social Development reported providing the following services during the year: disability allowances to disabled persons; financial assistance to procure prosthetics, wheelchairs, hearing aids, and other assistive devices; regular prosthetic committee meetings; annual government grants to NGOs serving the disabled community; crisis intervention counseling; and Braille classes.

In June the chief disability affairs officer in the Department of Social Services noted the ministry was having some difficulty maintaining the national registry for disabled persons. He stated that the number of disabled persons was grossly underreported at approximately 2,600, while he estimated there were closer to 30,000 disabled citizens in need of assistance. In 2010 the government provided 1,090 persons with some form of disability assistance.

A mix of government and private residential and nonresidential institutions provided education, training, counseling, and job placement services for adults and children with both physical and mental disabilities. Independent human rights observers reported that access requests to the Sandilands Rehabilitation Center were not consistently accommodated by the government.

National/Racial/Ethnic Minorities

The country's racial and ethnic groups generally coexisted in a climate of peace. However, anti-Haitian prejudice and resentment regarding Haitian immigration was widespread. According to unofficial estimates, between 30,000 and 60,000 residents were Haitians or persons of Haitian descent, making them the largest ethnic minority. Many persons of Haitian origin lived in shantytowns with limited sewage and garbage services, law enforcement, or other infrastructure. The conditions of the shantytowns varied greatly from one to the next and from island to island. For example, a shantytown in Abaco referred to as "The Mudd" consisted of several hundred numbered houses with limited electricity, water, gas, and sewage connections. In contrast, a number of shantytowns on New Providence and other islands consisted of houses built from trash and leftover building materials, with little organization, infrastructure, or sanitation measures in place. Fires frequently broke out in Haitian shantytowns in Nassau; on March 2, a fire in the Haitian village of Gamble Heights destroyed nine homes and on November 18, a fire in the Haitian village of Faith Avenue North destroyed six homes. Police investigations continued at year's end. Haitian children generally were granted access to education and social services, but interethnic tensions and inequities persisted. The Haitian community was characterized by high poverty, high unemployment, and poor health conditions. Haitians generally had difficulty in securing citizenship, residence, or work permits.

Members of the Haitian community complained of discrimination in the job market, specifically that identity and work-permit documents were controlled by employers seeking leverage by threat of deportation. Some also complained of tactics used by immigration officials in raids of Haitian or suspected Haitian communities.

On September 6, members of the Haitian community in Andros surrounded a local clinic where they accused an immigration officer of killing a man of Haitian descent. Community members reported that the officer chased the man, sprayed an unidentified chemical in his face, and then fled the scene. The man was later pronounced dead at the local clinic. The police superintendent confirmed that an incident took place but stated that the man died of natural causes.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Societal discrimination against gay men and lesbians occurred, with some persons reporting job and housing discrimination based upon sexual orientation. Although same-sex sexual activity between consenting adults is legal, the law defines the age

of consent for same-sex couples as 18 years, compared to 16 years for heterosexual couples. No domestic legislation addresses the human rights concerns of lesbian, gay, bisexual, and transgender (LGBT) persons. LGBT NGOs can openly operate in the country. The 2006 Constitutional Review Commission found that sexual orientation did not deserve protection against discrimination.

The July 2011 murder of photographer Sharvado Simmons remained unsolved, but some members of the LGBT community believed he was killed by a group of men seeking retribution for a previous incident where Simmons solicited and deceived one of the men while dressed “in drag.”

Other Societal Violence or Discrimination

Stigma and discrimination against persons with HIV/AIDS was high, but there were no reports of violence against persons with HIV/AIDS. Children with HIV/AIDS also faced discrimination, and teachers often were not told that a child was HIV-positive for fear of verbal abuse from both educators and peers. The government maintained a home for orphaned children infected with HIV/AIDS.

An independent facility known as the All Saints Camp operated as a hospice for approximately 20 HIV-infected individuals, using the individuals’ government and family proceeds to fund its expenses. Those in contact with the camp alleged extreme neglect of the HIV-infected individuals living at the camp on the part of the administrator, ranging from non-nutritious and irregular meals to improper or lack of basic medical care. The administrator of the camp reported that it did not employ nurses or staff and that sick individuals living there took care of themselves. Living conditions were generally unsanitary, and particularly sick individuals reported being left for days in unchanged adult diapers because they were unable to walk to the bathroom.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including applicable statutes and regulations, protects the right of workers to form and join independent unions, participate in collective bargaining, and conduct legal strikes, and it prohibits antiunion discrimination.

Members of the police force, defense force, fire brigade, and prison guards may not organize or join unions. Employers can apply to have union recognition

revoked if a collective agreement is not reached after 12 months. Employers can be compelled to reinstate workers illegally fired for union activity.

The government enforced labor laws; however, enforcement of government remedies and penalties was weak. During the year the Ministry of Labor and Social Development received more than 1,000 labor violation complaints, and the ministry's 11 officers resolved the majority of these cases in a timely manner. Under the law, labor disputes first are filed with the labor ministry and then, if not resolved, are transferred to an industrial tribunal. The tribunal's decision is final and can be appealed in court only on a strict question of law. Authorities reported a backlog of cases up to three years at the tribunal.

Unions and employers negotiated wage rates without government interference. The Ministry of Labor and Social Development reported that worker organizations were not affiliated with government or specific political parties and that it did not receive any reports of threats of violence targeting union leaders by employers. The government appointed experienced trade unionist to the ministry of labor to streamline the collective bargaining process. Workers occasionally filed disputes with the authorities involving "union-busting" charges, specifically in the financial services sector, and the ministry asserted that it consistently upheld applicable labor statutes to protect worker's rights.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The government does not consistently enforce the law in all cases. The Ministry of Labor and Social Development reported that no cases of forced labor were reported during the year. Local NGOs noted that exploited workers often did not report their circumstances to government officials for fear of deportation and lack of education about available resources.

Undocumented migrants were vulnerable to forced labor, especially in domestic servitude and in the agriculture sector. There were reports that noncitizen laborers, most often of Haitian origin, were vulnerable to forced labor and suffered abuses at the hands of their employers, who were responsible for endorsing their work permits on an annual basis. Specifically, local sources indicated that employers reportedly obtained B\$1,000 (\$1,000) work permits for noncitizen employees and then required them to "work off" the permit fee over the course of their employment or otherwise risk losing the permit and their ability to work legally within the country.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under age 14 for industrial work or work during school hours. Children under age 16 may not work at night. A young person (between ages 14 and 18) may work outside of school hours under the following conditions: (a) in a school day, for not more than three hours; (b) in a school week for not more than 24 hours; (c) in a non-school day, for not more than eight hours; (d) in a non-school week, for not more than 40 hours. An exception exists for so-called “packaging boys” at grocery stores who were as young as 12 years of age and may work more than three hours after school. The law prohibits persons younger than age 18 from engaging in dangerous work including construction, mining, and road building. There was no legal minimum age for employment in other sectors. Occupational health and safety restrictions apply to all younger workers.

The Ministry of Labor and Social Development is responsible for enforcing laws regulating working hours for children, as well as occupational health and safety restrictions. The International Labor Organization indicated that compliance with the regulations was positive.

d. Acceptable Conditions of Work

The minimum wage was B\$4.45 (\$4.45) per hour for hourly workers, B\$35 (\$35) per day for daily workers, and B\$150 (\$150) per week for weekly-paid workers. The law provides for a 40-hour workweek, a 24-hour rest period, and time-and-a-half payment for hours worked beyond the standard workweek. The law stipulates paid annual holidays and prohibits compulsory overtime. The government sets health and safety standards. According to the Ministry of Labor and Social Development, the law protects all workers, including migrant workers, in areas including wages, working hours, working conditions, and occupational and safety standards. Undocumented workers are not covered by the same standards.

The ministry was responsible for enforcing labor laws, including the minimum wage, and had a team of five inspectors that conducted on-site visits to enforce occupational health and safety standards and investigate employee concerns and complaints, although inspections occurred infrequently. The ministry normally

announced inspection visits in advance, and employers generally cooperated with inspectors to implement safety standards. It was uncertain whether these inspections were effective in enforcing health and safety standards.

Authorities reported four workplace fatalities in 2011, the latest year for which data were available. The government does not require reporting on workplace accidents.